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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936-5399-02]

RIN 0648-XG960

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2019 Commercial Accountability Measure and Closure for South
Atlantic Gray Triggerfish; January through June Season**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for gray triggerfish will reach the commercial annual catch limit (ACL)(commercial quota) for the January through June season by April 17, 2019. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on April 17, 2019. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, April 17,

2019, until July 1, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for gray triggerfish in the South Atlantic is divided into two 6-month fishing seasons. The total commercial ACL of 312,324 lb (141,668 kg), round weight, is allocated 50 percent to each commercial fishing season, or 156,162 lb (70,834 kg), round weight, each for January through June, and July through December, as specified in 50 CFR 622.190(a)(8)(i) and (ii).

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when either commercial quota specified in 50 CFR 622.190(a)(8)(i) or (ii)

is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for South Atlantic gray triggerfish for the January through June fishing season will be reached by April 17, 2019. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective at 12:01 a.m., local time, April 17, 2019, until the start of the July through December fishing season on July 1, 2019. Additionally, NMFS notes that as specified at 50 CFR 622.190(a)(8)(iii), if there is any unused portion of the January through June seasonal quota, it will be added to the July through December seasonal quota. Any unused portion of the July through December seasonal quota, including, if applicable, any addition of quota from the January through June season, will become void and will not be added to any subsequent quota in the following fishing year.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, April 17, 2019. During the closure, the recreational bag limit specified in 50 CFR 622.187(b)(8), and the possession limits

specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. Also, during the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, April 17, 2019, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and sale and purchase provisions of the commercial closure for gray triggerfish apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(q)(1)(i) and is

exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rules implementing the split commercial season for gray triggerfish and the commercial closure provisions have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess

of the established seasonal commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 12, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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